

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

Case No. 1:18-cv-00950-LO-JFA

PLAINTIFFS' OBJECTIONS TO DEFENDANTS' TRIAL EXHIBIT LIST

Pursuant to the Court's July 22, 2019 Order Modifying the Pretrial Schedule [Docket No. 223], Federal Rule of Civil Procedure 26(a)(3) and the local rules, Plaintiffs Sony Music Entertainment, et al. ("Plaintiffs") hereby submit their objections to the proposed trial exhibits of Defendants Cox Communications, Inc. and CoxCom, Inc. ("Cox" or "Defendants").

Attached hereto as Exhibit A are Plaintiffs' objections to Defendants' Exhibit List served on August 13, 2019 [Docket No. 232]. Many of the exhibits listed on Cox's exhibit list are documents that are admissible when offered by Plaintiffs but are not admissible when offered by Cox. By objecting to Cox's use of any exhibits at trial, Plaintiffs do not waive, and expressly reserve, Plaintiffs right to use or offer them into evidence for any permissible purpose. Plaintiffs also reserve the right to supplement or modify their objections to any exhibit based on pretrial rulings, rulings during the course of trial, or depending upon how Cox uses the exhibit at trial.

In addition to the objections set forth in Exhibit A, Plaintiffs object to Defendants' proposed trial exhibits on the following grounds:

1. Plaintiffs include objections based on certain contemplated *Daubert* motions and motions *in limine*, which may be dispositive of the objections below. Plaintiffs reserve the right to file future motions *in limine* or *Daubert* motions, including, without limitation, to those exhibits to which Plaintiffs have objected below. Plaintiffs further reserve the right to revise their objections in light of the Court's orders on such *Daubert* motions and motions *in limine*, or any other order of the Court.

2. Plaintiffs object to the Defendants' proposed exhibits to the extent that they contain double hearsay or hearsay within hearsay. For example, documents which reflect one individual relaying the purported statements of another.

3. Plaintiffs object to all documents to the extent that they are not properly authenticated at trial.

4. Plaintiffs object to all of Defendants' proposed exhibits that include documents or information not previously produced to Plaintiffs.

5. Plaintiffs reserve the right to object to any exhibit not identified on Defendants' Exhibit List or not provided to Plaintiffs prior to the filing of these objections.

The following chart sets forth Plaintiffs' abbreviations for its Specific Objections:

Fed. R. Evid.	Objection	Abbreviation
104(a)	Lack of foundation	F
104(b)	Conditional Relevance	CR
106	Incomplete writing	Inc
401/402	Not relevant	NR
403	Probative value substantially outweighed by danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence	403
408	Inadmissible settlement communication	408

Fed. R. Civ. P. 26(a)(2)	Undisclosed Expert Opinion	UEO
801, 802	Hearsay	H
901	Authenticity not established	Auth
1006	Improper Summary	IS
	Subject to Plaintiffs' forthcoming motions <i>in limine</i>	MIL
	Subject to Plaintiffs' forthcoming <i>Daubert</i> motions	D
Local Civil Rule 5(H)	Highly Confidential – subject to sealing	HC
	Evidence precluded by prior court order	PCO
	Foreign language without certified translation	FL
	Not produced during discovery	NP

Dated: August 29, 2019

Respectfully submitted,

/s/ Scott A. Zebrak
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